

In the matter of:

**FCC MB 05-311: Fairness for PEG Community, Our Towns and Cities**

Clayton J. Leander Board Member  
Alliance for Community Media, Western Region  
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December 13, 2006

**Ex Parte**

Ms. Marilyn Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311

Dear Ms. Dortch,

This notice is to record my ex parte meeting with Chris Robbins, staff for Commissioner Tate. I stated my concerns on a voicemail to Mr. Robbins on December 13th.

I also contacted the office of Commissioner Martin; however, on identifying my intent to discuss 05-311, my request to discuss the docket with live staff or even leave a voicemail message was, unfortunately, not granted, and I was instead told to send a fax. This was disappointing, as I am left to ponder other calls to Commissioner Martin's office to learn more or discuss 05-311 are left unrecorded.

As one who has worked in the broadcast, film production, and multimedia industries for nearly 20 years, I have been earned a number of perspectives first-hand as well as through mentors and colleagues, that I take as my duty and obligation to share with the Commission to better inform and guide its rulemakings. I have participated with the start-up, installation, technical operation and production of many teleproduction facilities, including for CBS, LucasFilm, KPST-66 and KTSF-26 in San Francisco, and several others. I have also participated in the start-up and operation of PEG community access television channels and facilities, most recently as Executive Director who led the start-up of new cable station in Vallejo, California, which has been severely underserved by broadcasting companies who hold licenses, transmitters and repeaters in or near Vallejo. The community is very excited and quickly became involved with the new PEG access television operation; and all believe it does serve to fulfill the local needs and interests where broadcasters have failed to do so. The success of the establishment and start-up of Vallejo's new PEG operation

is due specifically because of provisions for local authority to expediate and work, intentify, and serve the local community's interests. It would be most unfortunate if proposed rulemakings were to take away the only provisions for local telecasting in Vallejo.

My comments to Commissioner Tate's office are summarized as follows:

I join with the Alliance for Community Media members in calling for competition without destruction of local, community controlled media.

1) The proposed rule eliminates incentive for providers to negotiate in good faith. If the city and the provider do not come to agreement within 90 days, the provider can proceed without an agreement. They can then make billions of dollars using our public land without considering local needs. This framework would be unreasonable.

2) The proposed rule lacks a remedy for geographic discrimination. Public, Education and Government Access, or PEG, are tools to engage our local communities in democracy. Democratic participation should be for all, not based on a company business rule. The public-right-of-way is owned by all in our community, not just those in an area lucky enough to be served. We believe that inevitable market imbalances must be anticipated by the FCC, as they were by Congress, and that any rule-making must provide these three elements:

A) A standard for identifying imbalances in service.

B) A party responsible for identifying the imbalance—logically, the municipality.

C) A means for prevention or remedy of the imbalance.

3) The proposed rule reduces the support for PEG or other community media services from what is allowed by current Federal law. We believe this is an arbitrary reduction which will hurt our communities. It is in direct contradiction to language authored by telephone companies and already passed in key states such as California and Texas. This reduction would eliminate a valued community resource with no demonstrated effect on either subscriber price or level of competition.

4) The changes being proposed to the law are dramatic. We believe that such changes to the law should be made by Congress, not the FCC. These changes will slow competition by confusing the legal framework. Such changes should be decided by law-makers, not the courts. The FCC should not usurp Congressional authority.

I look forward to our organization and communities in engaging in further dialogue with the FCC to establish a process which supports both competition and community fairness. Please contact me if you have questions or comments.

Sincerely,

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CC: Christina Pauze  
Chris Robbins  
Heather Dixon  
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A COPY HAS BEEN SENT TO MY CONGRESSIONAL DELEGATION.